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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
Request of PacTel Paging for a)
Pioneer's Preference Respecting)
the Advanced Architecture Paging)
Service)

File No. PP-38
ET 92-100

REQUEST FOR PIONEER'S PREFERENCE

PacTel Paging ("PacTel"), by its attorney and pursuant to Sections 1.402 and 1.403 of the Commission's Rules, hereby respectfully requests a Pioneer's Preference in the licensing process for the Advanced Architecture Paging ("AAP") service. PacTel Paging has proposed the AAP service by a separate Petition for Rulemaking filed concurrent herewith. With respect to this request for a Pioneer's Preference, PacTel respectfully shows the following:

1. In its Report and Order in General Docket No. 90-217, FCC 91-112, released May 13, 1991 (the "Pioneer's Preference Order"), the Commission adopted rules that provide preferential treatment in its licensing processes for parties requesting spectrum allocation rule changes who have made a significant contribution to the development of new communications services and technologies. PacTel requests such a preference in connection with the licensing process for AAP.

2. Attached hereto as Exhibit 1 is a copy of PacTel's Petition for Rulemaking for AAP being filed concurrent

herewith ("Petition"). The Petition contains detailed information concerning PacTel's proposal respecting the proposed service, the frequencies to be used, and the necessary and appropriate licensing policies. As set forth in more detail below, PacTel is entitled to a Pioneer's Preference for AAP.

3. The Pioneer's Preference Order requires either (a) a rulemaking petition requesting allocation of spectrum for the proposed service or (b) rule amendments which would permit accommodation of the proposed technology within the existing rules.¹ PacTel has satisfied this threshold requirement by filing the Petition concurrent with the filing of this request. The Petition seeks allocation of spectrum from the 930-931 MHz reserve for the proposed AAP service. 930-931 MHz is currently held in reserve for Advanced Paging Services.

4. The Commission has recognized that "the key determinate of whether a Pioneer's Preference would be awarded is the degree to which a proposed service ... is 'new' or 'novel'" ² PacTel has drawn upon its extensive experience as a major provider of paging services in the United States to conceive and propose a novel and new service which could act as a platform for the introduction of advanced paging services including enhanced character

¹ Pioneer's Preference Order, at para. 37.

² Id. at para. 43.

sets, low and high resolution graphics, video, E-Mail, facsimile, digitized voice and lengthy alphanumeric messages. Historically, paging services, because of industry formatting standards and manufacturer's equipment design decisions, have been limited to either 4-bit (numeric) or 7-bit (alphanumeric) characters. AAP would unleash one-way paging services from the constraints imposed by 4-bit and 7-bit formats and word composition to allow for a variety of enhanced services. Ultimately, AAP might permit all digital data types to be distributed to the subscriber regardless of format or composition. PacTel is the innovator of this novel and new service and, to the best of PacTel's knowledge, no one else has proposed such a service.

5. The Commission has stated that it will award a Pioneer's Preference to an entity that demonstrates that it has developed an innovative proposal that leads to the establishment of a service not currently provided or a substantial enhancement of an existing service, provided, that the rules adopted for the new or enhanced service are a reasonable outgrowth of the proposal and lend themselves to the grant of a preference and a license to the pioneer.³

AAP is both a novel and new service and a substantial enhancement of an existing service (i.e., traditional paging services). Assuming that the rules adopted by the Commission for this novel and new service are a reasonable

³ Id. at para. 47.

outgrowth of PacTel's Petition, the basis for a Pioneer's Preference will be established and PacTel will be entitled to such a preference.

6. Although the Commission has not specifically concluded that an experimental authorization is required for receiving a pioneer's preference,⁴ PacTel has notified the Commission that it is experimenting with AAP under its ultimate parent's, Pacific Telesis Group's, experimental authorizations.⁵ Attached as Exhibit 2 is a copy of PacTel's Notice to the Commission of the details of its experimentation with respect to AAP. PacTel's experimentation is designed to determine the technical feasibility of AAP. PacTel will test various channel spacing between 25 KHz and 50 KHz, increased baud rates, and enhanced forward error correction.

7. PacTel's request for a Pioneer's Preference is timely filed with the Commission. In the Commission's June 13, 1991 Public Notice regarding Filing Requirements for Pioneer's Preference, the Commission stated that,

"...for Commission proceedings initiated before April 9, 1991, a preference applicant will not be required to submit a petition for rulemaking provided that it has previously submitted a petition for rule making or experimental license application ... before the July 30, 1991 effective date of the Report and Order."

⁴ Id. at para. 39.

⁵ FCC File No.s 1658-EX-PL-90, 1659-EX-PL-90, 1660-EX-PL-90, 1661-EX-PL-90, and 1662-EX-PL-90.

AAP is a novel and new service and no Commission proceeding has been initiated; thus, PacTel's filing of its Petition and Request for a Pioneer's Preference after July 30, 1991 is timely. AAP is not a form of Advanced Messaging Service ("AMS"), proposed by Telocator on January 23, 1991,⁶ because although it is a platform on which AMS could be provided, AAP offers substantially more than AMS. AMS continues the same evolutionary constraints already in place with respect to traditional paging (i.e., fixed formats and word composition). AAP potentially allows all digital formats and word compositions to be offered, not just a fixed service. However, to the extent that the Commission construes AAP to be a form of AMS, PacTel has nonetheless complied with the Commission's Rules. PacTel notified the Commission of its plans to experiment under its ultimate parent's experimental license which was delivered to the Commission on July 29, 1991.⁷ Therefore, PacTel has submitted an experimental license application prior to July

⁶ In the Matter of Telocator Petition For Rulemaking to Amend Part 22 of the Commission's Rules Concerning the Use of 930-931 MHz For An Advanced Messaging Service, FCC RM-7617.

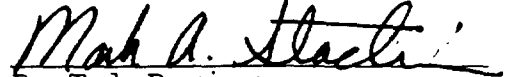
⁷ PacTel submits that there is no substantial distinction between filing for a new experimental license before July 30, 1991, or notifying the Commission of PacTel's intention to begin experimenting with AAP under an existing experimental authorization. The Pacific Telesis Experimental authorizations were obtained before July 30, 1991, so they should qualify as an experimental license obtained prior to July 30, 1991 for the purposes of this rule.

30, 1991.

8. As described in PacTel's Petition, AAP is inherently a regional service with the United States divided into three regions (Pacific Region, Central Region, and Atlantic Region). PacTel has proposed that numerous authorizations be available for qualified applicants. PacTel seeks a Pioneer's Preference only with respect to one authorization in the Pacific Region. Because multiple licenses are contemplated in the Petition, the award of a Pioneer's Preference to PacTel for the Pacific Region would not create a regional monopoly nor otherwise unduly restrict competition. In fact, an award of a Pioneer's Preference to PacTel would appropriately reward PacTel for its efforts in conceiving, experimenting, and proposing this innovative new service, while at the same time preserving fair and robust competition. Under these circumstances, PacTel, as the first qualified party filing a Petition for Rulemaking with respect to AAP, should be entitled to such a regional preference.

PacTel respectfully submits that it has met all the relevant criteria for a Pioneer's Preference and PacTel, assuming the Commission adopts rules establishing AAP which are a reasonable outgrowth of the PacTel proposal, is entitled to a Pioneer's Preference.

Respectfully submitted,
PACTEL PAGING



PacTel Paging
Three Forest Plaza
12221 Merit Drive
Suite 800
Dallas, Texas 75251
(214) 458-5200

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MARK A. STACHIW
Attorney for PacTel
Paging